HON'BLE SRI JUSTICE GODA RAGHURAM
AND
HON'BLE SRI JUSTICE S. ANANDA REDDY

W.P.NO. 1854 OF 2005

DATED: 12.9.2007

Between:

V. Sadasiva Rao

… Petitioner

and

The Registrar (Administration),
High Court of A.P., Hyderabad and another

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM
AND
HON'BLE SRI JUSTICE S. ANANDA REDDY

W.P.NO. 1854 OF 2005

ORAL ORDER: (per GR.J)

The writ petition is directed against the order dated 7.12.2004 and another order dated 5.2.2004 of the 1st respondent.

The 1st respondent by the order dated 7.12.2004, considered the review petition of the petitioner, seeking review of the earlier order dated 5.2.2004 of the same respondent, and rejected the same. In the earlier order dated 5.2.2004, the 1st respondent considered the appeal of the petitioner directed against the order of the 2nd respondent dated 10.3.2003, imposing the punishment of stoppage of four annual grade increments with cumulative effect and modified the same to a penalty of stoppage of two increments with cumulative effect. The appeal was partly allowed.

The learned XXIII Metropolitan Magistrate, Hyderabad, by his letter dated 3.5.1999, submitted a report to the 2nd respondent that the petitioner, the then Chief Ministerial Officer (CMO) had received certain case records, including C.C.No.317 of 1998 from the court of the V

Metropolitan Magistrate, Hyderabad on 31.10.1998 and had accordingly assigned CC numbers to all the cases, including C.C.No.317 of 1998, which was renumbered as C.C.No.1872 of 1998, and that the record of this case (C.C.No.1872 of 1998) never came up on to the bench along with connected records and despite the best of efforts, the record was not traced.

The 2nd respondent thereupon directed the XXIII Metropolitan Magistrate, Hyderabad, to conduct a preliminary inquiry to determine the responsibility of the staff concerned and submit a report. At the preliminary inquiry and in the report therefrom, responsibility was determined on the petitioner and another V. Manikya Rao, who was the then acting Section Clerk.

Meanwhile, on a complaint by the counsel for the complainant in C.C.No. 1872 of 1998, the High Court directed the 2nd respondent to make a discreet inquiry and submit a report. Eventually, disciplinary inquiry was initiated and charges were framed against the petitioner and V. Manikya Rao, for missing of the case record in C.C.No.1872 of 1998. The learned III Additional Metropolitan Sessions Judge, Hyderabad was appointed as an Inquiry Officer. The petitioner and the other officers were initially placed under suspension, but were thereafter reinstated into duty during the pendency of the departmental inquiry. After due process of inquiry, the Inquiry Officer submitted the report of the inquiry, finding the petitioner and the other officer guilty of the charge. The 2nd respondent thereupon, by the order dated 10.3.2003, after concurring with the findings in the inquiry report,

imposed the punishment of stoppage of four annual increments with cumulative effect on the petitioner.

From the report of inquiry, it is apparent that on a careful and cogent analysis of the oral and documentary evidence on record, the conclusion as to the guilt of the petitioner as charged was arrived at. The petitioner admitted to the receipt of the files from the court of the V Metropolitan Magistrate, Hyderabad; however he pleaded that on 2.11.1998 he had sent up all the cases with the case records to the Bench Clerk around 10.30 a.m., for obtaining signatures of the Presiding Officer on the docket sheets. The petitioner, therefore, admitted receipt of the case record in question, but pleaded its entrustment to the Bench Clerk on 2.11.1998. The Bench Clerk, to whom the case bundle was stated to have been entrusted by the petitioner, however denied this fact. He specifically testified that he did not receive this bundle at any time. The Junior Assistant concerned also testified that in respect of all the files entrusted to her, entries were made in the CC register and that she had not received the record of the case in question and, therefore, failed to make any entries in the CC register pertaining to it.

On the basis of the material on record, the Inquiry Officer inferred that the irresistible conclusion is that the petitioner was grossly negligent in the performance of his duties. It requires to be considered that the missing record pertained to a complaint under Section 138 of the Negotiable Instruments Act, involving dishonour of a cheque worth $ 9,11,490 U.S. currency, amounting to about Rs.4 crores.

The learned counsel for the petitioner would contend that the

penalty imposed is harsh and disproportionate to the nature of the misconduct alleged. The petitioner was afforded due, fair and reasonable opportunity in accordance with the statutory rules, governing the procedure for conduct of such inquiry, whereat there was substantial material by way of oral and documentary evidence to legitimize the inference of the guilt of the petitioner to the charge of gross negligence in the performance of his official duty. Missing of case bundles containing valuable original records undermines the faith of the public in the administration of justice. Gross negligence in the performance of the ministerial functions in the judicial department has inevitably the consequence of undermining such faith and, therefore, requires to be appropriately dealt with administratively.

In the facts and circumstances of the case, this court is satisfied that there was substantial material in the departmental inquiry to permit the conclusion of the guilt of the petitioner of the charges set out against him. Having regard to the nature of the misconduct, the modified punishment imposed by the appellate authority-1st respondent of stoppage of two increments with cumulative effect, is neither disproportionate nor otherwise vitiated by perversity.

There are no merits. The writ petition is accordingly dismissed. There shall be no order as to costs.

GODA RAGHURAM, J

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S. ANANDA REDDY,
J

Date: 12.9.2007
cvm